

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

ANDREW COHEN, TIMOTHY
HORNICK, KALEAH C. ALLEN,
KIMBERLY BENJAMIN, NICHOLAS
CARLSON, MARK WEILER, MATT
KOPPIN, SCOTT CISCHE, ALBERT
COLLINS, PAUL COLETTI, KRYSTLE
FAERN, RODOLFO CABRERA,
BRANDY DAVIS, WILLIAM ZIDE,
DAVID HEDICKER, NANCY
MAEKAWA, CATHERINE GOODWIN, ,
KATHLEEN BOGGS, KIMBERLY
MODESITT, MARK KUNZE, ARIANA
RYAN, NATHAN COOPER, BECKY
WELLINGTON, M. GAIL SUNDELL,
VICTOR PERLMAN, and ZACHARY
GOMOLEKOFF, individually and on behalf
of all other similarly situated,

Plaintiffs,

v.

APPLE INC.,

Defendant.

No. C 19-05322 WHA

**DISCOVERY ORDER RE MOTION
FOR SUMMARY JUDGMENT**

Before ruling on Apple's motion for summary judgment, the Court orders Apple to produce **WITHIN SEVEN CALENDAR DAYS** all communications between Apple and the FCC prior to and related to any certification involved in this action and all communications regarding the Chicago Tribune story. **WITHIN TWO WEEKS** thereafter, plaintiffs shall submit a supplemental memorandum not to exceed fifteen pages explaining the significance of any of

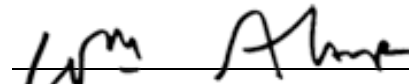
1 the discovery to the pending motion, appending thereto the full communications of
2 significance. **WITHIN ONE WEEK** thereafter, Apple may respond.

3 The Court is aware that Apple contends such discovery is unnecessary because Apple
4 insists that it can win on the narrower point of preemption. The Court is not rejecting this
5 position necessarily but believes the better course is to require the discovery stated above. This
6 order requires only the production of correspondence in email or letter form, and/or
7 memoranda summarizing, describing, or referring to telephonic or in-person conversations. It
8 does not require responding to interrogatories or other document requests, identifying
9 witnesses, or conducting depositions.

10 All communications between Apple and the FCC includes communications between any
11 lawyer or representative of Apple and the FCC. The court is tentatively of the view that all
12 such communications with the public agency should themselves be public and not subject to a
13 protective order but will not rule out the possibility that some of the materials may be subject
14 to attorney's-eyes-only designations.

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16 **IT IS SO ORDERED.**

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18 Dated: July 16, 2020.

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21 WILLIAM ALSUP
22 UNITED STATES DISTRICT JUDGE
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